

REMARKS

ELECTION/RESTRICTIONS

The Applicant herein confirms that claims 1-26 and 57 were elected during a teleconference with the Examiner on April 18, 2005. The remaining claims will be pursued in a divisional application.

35 USC §112

Claims 1-26 and 57 are rejected under 35 USC §112, first paragraph, as based on a disclosure which is not enabling. The Examiner contends that the “second luster component” is not enabled by the disclosure. The Applicant respectfully disagrees.

Pages 5 and 6 of the original disclosure disclose as follows:

“The first luster component and **the second luster component** comprise any suitable luster depending on the needs of the product, the customer and/or the vendor, and **each of the first luster component and the second luster component are different from one another**. Each luster component may be determined by any suitable and conventional method, but luster components are referred to herein as by their percent TiO₂, % TiO₂ or their percent titanium dioxide content, which are each interchangeable and have the same meaning for the purposes of this work. In contemplated embodiments, the first luster component may comprise a luster of less than about .45% TiO₂. In other contemplated embodiments, the first luster component may comprise a luster of less than about .25% TiO₂. In yet other contemplated embodiments, the first luster component may comprise a luster of less than about .15% TiO₂. In additional

contemplated embodiments, the first luster component may comprise a luster of less than about .1% TiO_2 . In contemplated embodiments, **the second luster component may comprise a luster of less than about .45% TiO_2 .** In other contemplated embodiments, the second luster component may comprise a luster of less than about .25% TiO_2 . In yet other contemplated embodiments, the second luster component may comprise a luster of less than about .15% TiO_2 . In additional contemplated embodiments, the second luster component may comprise a luster of less than about .1% O_2 . **It should be understood; however, that the first luster component and the second luster component are intentionally selected to be different from one another. In other words, the first luster component and the second luster component are not equal to one another."**
(emphasis added)

The second luster component, along with the first luster component, is disclosed in the specification. The Applicant respectfully requests that the rejection under 35 USC §112, first paragraph, be withdrawn.

Claims 7-10 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter to which applicant regards as the invention. The Applicant respectfully disagrees.

Claim 1 is directed to a fiber material which comprises, in part, a plurality of binder fibers. Claims 7-10 refer to the amount of binder fibers present in the fiber material. For example, claim 7 recites that the fiber material of claim 1 comprises less than 2.5 weight percent of the plurality of binder fibers. The phrase “the plurality of binder fibers” refers back to the “a plurality of binder fibers” of claim 1. For claim 7 to indicate that the fiber material comprises less than 2.5 weight percent of binder fibers narrows claim 1.

Therefore, claims 7-10 are allowable as being definite and the Applicant herein invites the Examiner to contact the undersigned Attorney-of-Record if any questions remain regarding this rejection.

35 USC §103(A)

Claims 1, 2 and 57 are rejected under 35 USC §103(a) as being unpatentable over Tung et al. (US 5284009) in view of Kobsa et al (US 4559196) and in further view of Meelheim (US 3376249). The Applicant respectfully disagrees.

First, the Examiner only cites Tung and Kobsa in the remarks related to this rejection. Meelheim is not cited. The Applicant respectfully requests correction or clarification.

Second, Claim 1 recites:

“A fiber material, comprising:

a first base fiber component comprising a first denier and a first luster component;

a second base fiber component comprising a second denier and a second luster component, wherein the first denier and the second denier are different and wherein the first luster component and the second luster component are different; and

a plurality of binder fibers.”

As recited in the claim, there are two base fiber components – each having a denier and a luster component, whereby the individual deniers and luster components are different. This difference in denier and luster components is novel and contributes to the superior quality of the products produced by the subject matter of the present application. Tung does not disclose, teach, suggest or motivate one of ordinary skill in the art to combine two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component. Kobsa does not cure this defect in Tung, because Kobsa only discloses a new method of dying carpets. Therefore, although Kobsa may combine with Tung to show how the fibers

in Tung may be dyed in a new method, Tung does not disclose the combination of two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component. The Examiner appears to contend that the mention of two different delustrants in the cited references precludes patentability of the current application – but the Applicant believes that the Examiner is misreading the claim and the supporting specification. The first luster component and the second luster component are different from one another. This difference may be caused because one luster component may comprise a luster of less than about .15% TiO₂ and the second luster component may comprise a luster of less than about .45% TiO₂. Example 1 (among others) of the present application also supports the claims by disclosing:

“A blend of the following materials was developed:

50 weight percent of a nylon-6 fiber product that comprises about 1 weight percent of binder fiber, such as T-417 – which is manufactured by Honeywell International Inc. This fiber product has a 6.5 denier and a .14% TiO₂ luster level.

50 weight percent of a nylon-6 fiber product that comprises zero weight percent of binder fiber, such as T-514 – which is manufactured by Honeywell International Inc. This fiber product has a 10 denier and a .25% TiO₂ luster level.

This blend was processed by using either an atmospheric pressure forced air machine (Suessen® Twist-Setting Machine), which activates at least some of the plurality of binder fibers at temperatures ranging from about 195°C to about 200°C, or a pressurized twist-setting machines (the autoclave-type or those manufactured by Superba®), which activates at least some of the plurality of binder fibers at temperatures ranging from about 105°C to about 138°C.

This blend was also used to produce conventional yarn counts in the range of about 1.0/2 ply Ne to about 8.0/2/2 ply Ne, including 1.8/2 ply Ne and 6/2/2 ply Ne. The yarn bundle has a

distinctive appearance and a hand not otherwise realized in a conventional finished yarn or carpet product.” (emphasis added)

The Applicant respectfully requests the Examiner to reconsider his rejection and to allow claims 1, 2 and 57 as being patentable over Tung et al. (US 5284009) in view of Kobsa et al (US 4559196).

Claims 11-26 are rejected under 35 USC §103(a) as being unpatentable over Tung et al. (US 5284009) in view of Kobsa et al (US 4559196) and in further view of Meelheim (US 3376249). The Applicant respectfully disagrees.

Claim 1 recites:

“A fiber material, comprising:

a first base fiber component comprising a first denier and a first luster component;

a second base fiber component comprising a second denier and a second luster component, wherein the first denier and the second denier are different and wherein the first luster component and the second luster component are different; and

a plurality of binder fibers.”

As recited in the claim, there are two base fiber components – each having a denier and a luster component, whereby the individual deniers and luster components are different. This difference in denier and luster components is novel and contributes to the superior quality of the products produced by the subject matter of the present application. Tung does not disclose, teach, suggest or motivate one of ordinary skill in the art to combine two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component. Kobsa does not cure this defect in Tung, because Kobsa only discloses a new method of dyeing carpets. Therefore, although Kobsa may combine with Tung to show how the fibers in Tung may be dyed in a new method, Tung does not disclose the combination of two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component. The Examiner appears to contend that the mention of two different delustrants in the cited references precludes patentability of the current application – but the

Applicant believes that the Examiner is misreading the claim and the supporting specification. The first luster component and the second luster component are different from one another. This difference may be caused because one luster component may comprise a luster of less than about .15% TiO₂ and the second luster component may comprise a luster of less than about .45% TiO₂. Example 1 (among others) of the present application also supports the claims by disclosing:

“A blend of the following materials was developed:

50 weight percent of a nylon-6 fiber product that comprises about 1 weight percent of binder fiber, such as T-417 – which is manufactured by Honeywell International Inc. This fiber product has a 6.5 denier and **a .14% TiO₂ luster level**.

50 weight percent of a nylon-6 fiber product that comprises zero weight percent of binder fiber, such as T-514 – which is manufactured by Honeywell International Inc. This fiber product has a 10 denier and **a .25% TiO₂ luster level**.

This blend was processed by using either an atmospheric pressure forced air machine (Suessen® Twist-Setting Machine), which activates at least some of the plurality of binder fibers at temperatures ranging from about 195°C to about 200°C, or a pressurized twist-setting machines (the autoclave-type or those manufactured by Superba®), which activates at least some of the plurality of binder fibers at temperatures ranging from about 105°C to about 138°C.

This blend was also used to produce conventional yarn counts in the range of about 1.0/2 ply Ne to about 8.0/2/2 ply Ne, including 1.8/2 ply Ne and 6/2/2 ply Ne. The yarn bundle has a distinctive appearance and a hand not otherwise realized in a conventional finished yarn or carpet product.” (emphasis added)

Meelheim suffers from the same defect as Kobsa in that it doesn’t disclose, teach, suggest or motivate to one of ordinary skill in the art to utilize a combination of two base fiber components –

where each base fiber component has a denier and a luster component different from that of the other base fiber component to form ultimately a carpet product. Meelheim merely teaches combining different dying materials together to form new luster properties for fibers, but does not teach dying different fibers with different luster levels and combining them as claim 1 recites.

Therefore, claim 1 is allowable as patentable over Tung et al. (US 5284009) in view of Kobsa et al (US 4559196) and in further view of Meelheim (US 3376249). In addition, claims 11-26 are allowable as patentable over Tung et al. (US 5284009) in view of Kobsa et al (US 4559196) and in further view of Meelheim (US 3376249) by virtue of their dependence on independent claim 1.

Claims 3-6 are rejected under 35 USC §103(a) as being unpatentable over Tung et al. (US 5284009) in view of Hayes (US 5082720) and in further view of Lofquist (US 5478624). The Applicant respectfully disagrees.

Claim 1 recites:

“A fiber material, comprising:

a first base fiber component comprising a first denier and a first luster component;

a second base fiber component comprising a second denier and a second luster component, wherein the first denier and the second denier are different and wherein the first luster component and the second luster component are different; and

a plurality of binder fibers.”

As recited in the claim, there are two base fiber components – each having a denier and a luster component, whereby the individual deniers and luster components are different. This difference in denier and luster components is novel and contributes to the superior quality of the products produced by the subject matter of the present application. Tung does not disclose, teach, suggest or motivate one of ordinary skill in the art to combine two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component. Neither Hayes nor Lofquist do not cure this defect in Tung, because Hayes and Lofquist only disclose blending base fibers. Therefore, although Hayes and Lofquist may combine with Tung to show how the base fibers in Tung may be combined, Tung does not disclose, alone or in combination with Hayes and/or Lofquist, the combination of two base fiber components – where each base fiber component has a denier and a luster component different from that of the other base fiber component.

Therefore, claim 1 is allowable as patentable over Tung et al. (US 5284009) in view of Hayes (US 5082720) and in further view of Lofquist (US 5478624). In addition, claims 3-6 are allowable as patentable over Tung et al. (US 5284009) in view of Hayes (US 5082720) and in further view of Lofquist (US 5478624) by virtue of their dependence on independent claim 1.

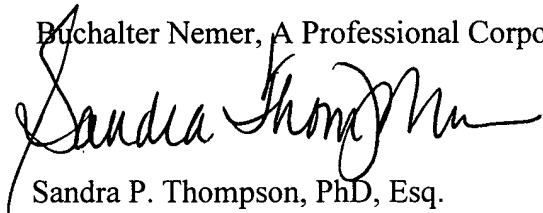
REQUEST FOR ALLOWANCE

Claims 1-26 and 57 are pending in this application, and the Applicant respectfully requests that the Examiner reconsider all of the claims in light of the arguments presented and allow all current and pending claims.

Respectfully submitted,

Buchalter Nemer, A Professional Corporation

By:



Sandra P. Thompson, PhD, Esq.

Reg. No. 46,264

E-mail: sthompson@buchalter.com

Direct Line: 949-224-6282

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ATTORNEYS FOR APPLICANT(S):
18400 Von Karman Ave., Suite 800
Irvine, CA 92612
Tel: 949-224-6282
Fax: 949-224-6203